

STATEMENT OF ALEXANDER P. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION  
ADMINISTRATION, BEFORE THE HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE,  
SPECIAL COMMITTEE ON AIR TRAFFIC CONTROL REGARDING H. R. 7416 and  
H. R. 7417, ON MARCH 11, 1974

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the status of the air traffic controllers' second career program and air traffic staffing and to discuss two bills introduced which affect air traffic controllers, H. R. 7416 and H. R. 7417. With me this morning are Messrs. Charles E. Weithoner, Acting Associate Administrator for Administration and Raymond G. Belanger, Director of the Air Traffic Service.

Addressing the status of the air traffic controllers' second career program (Public Law 92-297) I would like to briefly outline progress we have made in implementing the Act since it was signed into law in May 1972. I might add that all of the data I will provide concerning the second career program is as of December 31, 1973.

Guidelines for implementing Public Law 92-297 were published in early September 1972, and we began immediately to process air traffic controllers who had become eligible for the Act's benefits after the effective date of the Act, August 14, 1972.

Through the end of December 1973, 690 controllers had received notice of their job disqualification and resulting eligibility for

second career training. Of these, 74 availed themselves of the early retirement provisions of the law, and 286 are taking second career training. The remaining controllers either did not request training, have already completed or withdrawn from training, or will begin training in the near future.

The types of training received include academic education (164), technical/vocational training (69), and on-the-job training (53). Time spent in this training ranges from 3 to 24 months with an average of 22 months per controller.

Since the Act went into effect, the Department has completed three projects required for full implementation of the program.

First, at the request of Congress, a comprehensive review was made of our decision that flight service station personnel should not be covered by the provisions of the controller career legislation. Last year, January 1973, the Secretary submitted that study and its findings to the Senate Post Office and Civil Service Committee. The report concluded that the inclusion of FSS employees under the coverage of the Act could not be justified considering differences in the nature of FSS duties vis a vis duties of controllers.

The second project was to establish a maximum entry age for controllers. The Act authorized the Secretary of Transportation to

establish a maximum entry age for candidates entering the air traffic controller career, with the concurrence of an agent designated by the President. The President designated the Civil Service Commission for this purpose. After gaining the Commission's concurrence on our proposal to establish age 30 as the maximum entry age, we implemented this provision of the Act in February 1973.

The third project the Department undertook was the development of a plan to fund both the direct costs of implementing the legislation and the costs of recruiting and training replacement controllers. For Fiscal Year 1973, the Office of Management and Budget authorized the Department to exclude 250 second career trainees from normal staffing limitations as specified in the Act. The 1974 program contains and the 1975 budget will contain adequate provision for continued implementation of the program as envisioned by the Congress, including funding for an anticipated total of 500 second career trainees in 1974 and 750 second career trainees in 1975. We expect the number of people in second career training to level out at the 750 figure. For Fiscal Year 1974, the Congress appropriated \$10 million for this program, and I am confident this will be adequate.

Mr. Chairman, the air traffic controller career legislation inaugurated a significant new program which we in the Department of Transportation believe is essential for aviation safety and for the

needs of our controllers. As you well know, we labored diligently with this Committee to secure its passage. We are happy to report that this past year has seen the full implementation of this program.

I would now like to bring the Committee up to date on staffing for air traffic control terminals and centers. Last February Mr. Bertrand M. Harding provided this Subcommittee with anticipated hiring figures. These figures indicated a total anticipated hiring of 2700 controllers between January 1, 1973 and June 30, 1974.

I am pleased to announce today that we have made substantial effort and progress toward meeting that planned figure. To illustrate this progress, since the last hearing in February 1973 we not only met our Fiscal Year 1973 target as of June 30, 1973, but exceeded that target by 262. Stated in terms of total hires, from February 1, 1973-January 31, 1974 we hired 1655 center and tower controllers. We believe these statistics demonstrate substantial progress toward achieving our planned staffing. We have every reason to believe that we can continue this progress until the end of FY-74 right on through FY-75.

I turn now to a consideration of two bills, H. R. 7416 and H. R. 7417 currently before this Subcommittee.

With regard to H. R. 7416, Public Law 92-297 provided for a Board to review the Secretary's determination to remove a controller from his

career position. When convened the Board consists of three members, one designated by the controller, one by the Secretary and one by the Chairman of the Civil Service Commission. H. R. 7416 provides for payment of fees or salaries and travel expenses of Board members, including the member designated by the employee.

We considered provisions similar to those contained in H. R. 7416 while developing the regulations implementing the second career legislation. We recognized, for example, that there was some merit to the contention that the employee's representative was serving a function of the Department of Transportation by participating as a member of the Board of Review. As a consequence of this contention, payment of travel and per diem expenses of the employee's representative was specifically provided for in the implementing regulations. We did not, however, provide for payment of professional fees or their equivalent. Our reasoning behind allowing one form of payment and not the other was that with regard to travel and per diem expenses these could be associated with convening the Board. However, payment of the professional fees of the Board member selected by the controller transcends the convening of the Board and encroaches upon the traditional concept that the selection and payment of an employee's representative is his own business, and, therefore, not a proper expense of the Department.

In this connection, it must be recognized that this proposed legislation is unique in that in all appeals procedures we are aware of

employee expenses in the nature of professional fees are borne by the employee. For example, in adverse action and grievance procedures the employee is entitled to representation, but he is expected and required to obtain and pay for such representation on his own. While the Board of Review is somewhat unique and distinguishable as to form from adverse action and grievance procedures, in substance the principle of having the employee obtain and pay for such services, in my opinion, is the same.

In conclusion of my remarks concerning H. R. 7416, I feel the agency made the correct decision in implementing the second career legislation to pay for travel and per diem of the employee-selected Board member but to leave to the employee the payment of his selectee's professional fee or salary. Based on this feeling, I am opposed to the enactment of H. R. 7416. In addition, to the extent that by regulation we already provide for travel and per diem expenses, that portion of H. R. 7416 providing for payment of such expenses would appear unnecessary.

With respect to H. R. 7417 it is our opinion that such legislation is unnecessary. The bill would provide for paying a controller at the rate of a supervisory grade for all periods of time during which he was designated to perform such supervisory duties. Title 5, United States Code, and Civil Service Commission regulations already provide adequate authority and procedures for making temporary promotions and thereby

compensating an employee for assignments to higher level duties. In order to assure that FAA employees were not unfairly assigned to higher level duties without proper compensation, I issued a policy statement on October 19, 1973 charging our regional directors to use temporary promotions whenever appropriate.

With further reference to the need for legislation of the nature proposed, at the present time we have only 103 supervisory vacancies in our terminals and centers, a minimal figure considering that we have approximately 3400 supervisors in those facilities. Recognizing the possibility of a few isolated incidents which have not come to my attention, based on the evidence I have seen it is my opinion that the practice sought to be remedied by H. R. 7416 is at present neither abused by FAA nor has it resulted in the type of inequitable situation requiring the legislation under consideration.

In conclusion of my remarks concerning H. R. 7417, there are three points I would like to make in expressing my opposition to the measure:

1. We have adequate authority in Title 5 and Civil Service Commission regulations to make temporary promotions to avoid inequitable treatment of controllers.
2. I have emphasized to our regional directors the existence of and need to use such authority.
3. I do not believe the present staffing situation demands a change or reemphasis of existing authority.